

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

GRACE BURROWS, individually and as
Personal Representative of the ESTATE OF
WALTER BURROWS, and on behalf of the
statutory beneficiaries thereto consisting of
RANDY MORROW, DENISE FOY, CARROL
DOBBINS, JENNIFER SIPES, and TINA
RADOVICH,

Plaintiffs,

vs.

3M COMPANY, a foreign corporation,

Defendant.

NO. 2:19-cv-01649-RSL

**STIPULATED PROTECTIVE ORDER
REGARDING CONFIDENTIAL
DOCUMENTS**

To facilitate the orderly exchange of discovery materials in the above captioned matter (“the Lawsuit”) and to avoid dissemination of confidential information, documents, or materials without appropriate safeguards, it is hereby agreed by and between the parties, and Ordered by the Court, that the following provisions concerning the confidential treatment of documents, answers to interrogatories, responses to requests for production, responses to requests for admission, deposition testimony, and other responses to discovery requests, shall apply in the above-captioned matter.

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1 1. Documents produced by either the Plaintiffs or Defendant (individually referred
2 to as a “Party” or collectively as the “Parties”) to this litigation which contain confidential
3 information shall hereafter be referred to as “Protected Documents.” The Parties agree that
4 material may be designated “CONFIDENTIAL” only if such material contains information,
5 deemed by the producing Party to contain non-public confidential information of a
6 competitively or commercially sensitive, proprietary, or trade-secret nature, which may include,
7 ~~but is not limited to:~~ design drawings, manufacturing specifications, testing information, sales
8 and distribution agreements, financial and pricing data, banking information, personnel records,
9 and personal information and/or medical information. Any document or any information
10 designated as “CONFIDENTIAL” shall only be used, shown, disseminated, or disclosed as
11 provided in this Protective Order. Any summary, compilation, notes, memoranda, analysis,
12 electronic image, or database containing Protected Information shall be subject to the terms of
13 this Protective Order to the same extent as the material or information from which such
14 summary, compilation, notes, memoranda, analysis, electronic image, or database is derived.

15 2. As used in this Protective Order, the term “documents” means all materials as
16 defined in the broadest sense by the Federal Rules of Civil Procedure.

17 3. Prior to designating any material as “CONFIDENTIAL,” a Party and their counsel
18 are required to review the material and designate only that information it believes in good faith
19 is confidential or otherwise entitled to protection. Information designated as
20 “CONFIDENTIAL” shall be entitled to the protections afforded by this Protective Order unless
21 the designation is objected to in writing by another Party. The objecting party shall set up a
22 telephonic conference to take place within ten (10) business days of the written objection. In the
23 event the Parties cannot resolve the objection by mutual agreement, the objecting Party may
24 seek court intervention to resolve the dispute by filing a motion no later than ten (10) business
25 days after the above referenced conference. Any document marked as “CONFIDENTIAL” will

1 continue to be treated as such pending determination by the Court as to its confidential status.
2 ~~Any party seeking court intervention may not attach the subject document to motions filed with~~
3 ~~the court. It is agreed the subject documents will be provided to the Court for an *in camera*~~
4 ~~inspection pursuant to terms as decided by the Court. Local Civil Rule 5(g) sets forth the~~
5 ~~procedures that must be followed and the standards that will be applied when a party seeks~~
6 ~~permission from the court to file material under seal.~~ The burden of persuasion in any such
7 motion shall be on the designating party.

8 4. The designation of Protected Documents may be made by marking or placing the
9 notice “CONFIDENTIAL” or substantially similar notice, on the document.

10 Each party or non-party that designates information or items for protection under this
11 agreement must take care to limit any such designation to specific material that qualifies under
12 the appropriate standards. The designating party must designate for protection only those parts
13 of material, documents, items, or oral or written communications that qualify, so that other
14 portions of the material, documents, items, or communications for which protection is not
15 warranted are not swept unjustifiably within the ambit of this agreement.

16 Mass, indiscriminate, or routinized designations are prohibited. Designations that are
17 shown to be clearly unjustified or that have been made for an improper purpose (e.g., to
18 unnecessarily encumber or delay the case development process or to impose unnecessary
19 expenses and burdens on other parties) expose the designating party to sanctions.

20 If it comes to a designating party’s attention that information or items that it designated
21 for protection do not qualify for protection, the designating party must promptly notify all other
22 parties that it is withdrawing the mistaken designation.

23 5. Protected Documents and any copies thereof received by a “Qualified Person” as
24 set forth in paragraph 6, below, shall be used solely in the prosecution or defense of this action,
25 subject to the limitations set forth herein.

1 6. Protected Documents shall be disclosed only to “Qualified Persons.” Qualified
2 Persons are limited to:

- 3 (a) Counsel for the Parties, their associated attorneys, and employees of counsel
4 who are involved in the prosecution or defense of this action;
5 (b) The Parties;
6 (c) Experts and non-attorney consultants retained by the Parties for the
7 preparation or trial of this case, provided that no disclosure shall be made to
8 any expert or consultant who is employed by a competitor of any Defendant;
9 (d) The Court, the Court’s staff, witnesses and the jury of this case;
10 (e) Stenographic reporters who are engaged in proceedings necessarily incident
11 to the conduct of this action;
12 (f) Deponents, witnesses, or potential witnesses;
13 (g) Mediators and arbitrators;
14 (h) Copy or imaging services retained by counsel to assist in the duplication of
15 confidential material, provided that counsel for the party retaining the copy of
16 imaging service instructs the service not to disclose any confidential materials
17 to third parties and to immediately return all originals and copies of any
18 confidential materials;
19 (i) The author or recipient of a documents containing the information or a
20 custodian; and
21 (j) Other persons by written agreement of the Parties.

22 7. It is the responsibility of the counsel receiving the “confidential material” to notify
23 all other persons authorized to receive the “confidential material” under this order, that the
24 information is confidential and may only be used for purposes of this litigation. Experts and
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1 non-attorney consultants, however, shall be provided with a copy of this Protective Order and
2 execute a "Written Assurance" in the form contained in Exhibit A, attached hereto.

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5 8. No party shall, for any purpose, disclose or make use of any "confidential
6 material" obtained pursuant to pretrial discovery in this action except in accordance with this
7 order.

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9 9. To the extent that Protected Documents or information obtained therefrom are
10 used in the taking of depositions, such documents or information shall remain subject to the
11 provisions of this Protective Order, along with the transcript pages of the deposition testimony
12 and/or trial testimony dealing with the Protected Documents or information. Objections as to
13 confidentiality shall be preserved, and a party seeking the designation of a document or
14 testimony as confidential shall do so in writing within 21 days of receipt of the proposed
15 transcript. Should the parties fail to agree on a designation of confidentiality they shall seek a
16 ruling from the Court. The court reporter shall separately transcribe and bind the testimonies so
17 designated as confidential by agreement or ruling by the Court and shall mark the face of the
18 bound transcript containing such confidential testimony with the word "Confidential."

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20 10. Any stenographic reporter who records or transcribes testimony in this action shall
21 agree that all "CONFIDENTIAL" information designated as such under this Protective Order
22 shall remain confidential and shall not be disclosed by them, except pursuant to the terms of this
23 Protective Order, and that any notes or transcriptions of such testimony (and any accompanying
24 exhibits) will be retained by the reporter or delivered to Counsel of Record.

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11. Nothing contained in this Protective Order shall prevent any Party from making
disclosures beyond its terms if (a) the producing Party of confidential information or documents
consents in writing to such disclosure, or (b) this Court, after notice to all affected parties, orders
such disclosure.

1 12. Any Party may utilize confidential information or documents produced in this
2 matter as part of any motion, affidavit, brief, memorandum of law, or other document filed with
3 the Court in this litigation provided that any such information or documents utilized shall be
4 marked "CONFIDENTIAL" and the filing party follows the Court's procedures for filing such
5 documents under seal.

6 13. The production or disclosure of confidential information or documents, whether
7 done voluntarily, through discovery, or by order of the Court, does not constitute a waiver of
8 any Party's right to object to the admission or use of such confidential information at a hearing
9 or at the trial of this matter. Unless otherwise agreed to in writing by the Parties or ordered by
10 the Court, all proceedings involving or relating to confidential information and documents shall
11 be subject to the provisions of this Protective Order.

12 14. Inadvertent or unintentional disclosure of privileged documents or documents or
13 information containing information which has been or should have been designated as
14 "CONFIDENTIAL" shall not be deemed a waiver in whole or in part of a Party's claims of
15 confidentiality or privilege. In the event that confidential documents are inadvertently or
16 unintentionally disclosed by a party to another party, the disclosing party shall notify all parties
17 in writing of the inadvertent disclosure, and the parties receiving such inadvertent disclosures
18 shall return such documents to the disclosing party within 3 days of notice of the inadvertent
19 disclosure. In the event that confidential documents are inadvertently or unintentionally
20 disclosed by a party to a non-party, the disclosing party shall notify all parties in writing of the
21 disclosure within 3 days of the disclosure and make all reasonable efforts to retrieve said
22 documents, and such disclosure shall not be deemed intentional absent evidence to the contrary.

23 15. This Protective Order may not be waived, modified, abandoned or terminated, in
24 whole or in part, except by an instrument in writing signed by the Parties. If any provisions of
25 this Protective Order shall be held invalid for any reason whatsoever, the remaining provisions

1 shall not be affected thereby.

2 16. After termination of this litigation, the provisions of this Order shall continue to
3 be binding. This Court retains and shall have jurisdiction over the Parties and recipients of
4 Protected Documents for enforcement of the provisions of this Order following termination of
5 this litigation. No Qualified Person or other recipient of confidential information and
6 documents shall copy, duplicate, or otherwise retain any confidential information or documents
7 other than for use solely for purposes of this litigation. Within sixty (60) days from the date of
8 entry of final judgment or order of dismissal in this litigation, each Qualified Person or recipient
9 of any confidential information and documents shall destroy confidential documents and
10 information and certify in an affidavit such destruction.

11 17. Any party may make objections or provide other responses permitted by the
12 Federal Rules of Civil Procedure to any interrogatory, request for production, request for
13 admission, question at a deposition, or other discovery request. No objections shall be made
14 based upon confidentiality.

15 18. This Protective Order shall be binding upon the Parties hereto, upon their
16 attorneys, and upon the Parties' and their attorneys' successors, executors, personal
17 representatives, administrators, heirs, legal representatives, assigns, subsidiaries, divisions,
18 employees, agents, independent contractors or other persons or organizations over which they
19 have control. The designated Protected Documents and Information shall only be used in this
20 litigation.

21 19. All persons described in paragraph 6 above shall not under any circumstance sell
22 or offer for sale either the Protected Documents or the confidential information contained
23 therein. This paragraph does not prohibit disclosure of the fact that Protected Documents are
24 possessed (as distinguished from disclosure of the substance of such documents) to potential
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1 Qualified Persons so long as the provisions of this Protective Order are complied with in full
2 prior to disclosure of the actual Protected Documents or confidential information.

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5 20. This Protective Order may be modified by the Court at any time for good cause
6 shown following notice to all Parties and an opportunity for them to be heard.

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9 **ORDER**

10 Pursuant to the agreement and stipulation of the Parties (see Dkt. #22-1), the terms as set
11 forth above are hereby approved and it is so ORDERED.

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13 Dated this 27th day of April, 2020.

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17 Robert S. Lasnik
18 United States District Judge
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EXHIBIT A

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

GRACE BURROWS, individually and as
Personal Representative of the ESTATE OF
WALTER BURROWS, and on behalf of the
statutory beneficiaries thereto consisting of
RANDY MORROW, DENISE FOY, CARROL
DOBBINS, JENNIFER SIPEs, and TINA
RADOVICH,

Plaintiffs,

vs.

3M COMPANY, a foreign corporation,

Defendant.

NO. 2:19-cv-01649-RSL

WRITTEN ASSURANCE

Affidavit of _____, being duly sworn and personally appearing
before the undersigned notary public, duly authorized by law to administer oaths, deposes and
states that the within statements are true and correct.

1. I have read the Protective Order attached hereto and I understand its terms and meanings.
2. I agree that my signature below submits me to the jurisdiction of the United States District Court for the Western District of Washington at Seattle where the case styled *Grace Burrows et al. v. 3M Company*, Case No. 2:19-cv-01649-RSL, is

1 pending, and binds me to the provisions of the Protective Order, including to all
2 promises undertaken in the Order, as if originally agreed to by me.

- 3 3. I agree that within sixty (60) days from the date of entry of final judgment or order
4 of dismissal in this litigation, I will return to counsel for the producing party any
5 and all copies of confidential information and documents, or destroy confidential
6 documents and information. In the event I agree to destroy confidential
7 information and documents, I will provide all Parties with an affidavit confirming
8 the destruction.

9
10 FURTHER SAYETH AFFIANT NOT.

11 _____, Signature

12 _____, Please print name

13
14 Subscribed and sworn to before me by _____ this ____ day of _____,
15 20____.

16 _____
17 _____
18 Notary Public
19 My Commission Expires: _____
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